



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2011-0969; EPA-R05-OAR-2012-0991;  
EPA-R05-OAR-2013-0435; FRL- 9923-42-Region 5]**

**Approval and Promulgation of Air Quality Implementation Plans;  
Illinois; Emission Limit Infrastructure SIP Requirements for the  
2008 Ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed Rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve some elements of a state implementation plan (SIP) submission from Illinois regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2008 8-hour ground level ozone, 2010 nitrogen dioxide (NO<sub>2</sub>), and 2010 sulfur dioxide (SO<sub>2</sub>) National Ambient Air Quality Standards (NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. This action is specifically looking at infrastructure requirements concerning emission limits and other control measures.

**DATES:** Comments must be received on or before [insert date 30 days after publication in the Federal Register].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2011-0969 (2008 ozone infrastructure elements), EPA-R05-OAR-2012-0991 (2010 NO<sub>2</sub> infrastructure elements), or EPA-R05-OAR-2013-0435 (2010 SO<sub>2</sub> infrastructure elements) by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
2. E-mail: [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov).
3. Fax: (312) 408-2279.
4. Mail: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID. EPA-R05-OAR-2011-0969 (2008 ozone infrastructure elements), EPA-R05-OAR-

2012-0991 (2010 NO<sub>2</sub> infrastructure elements), or EPA-R05-OAR-2013-0435 (2010 SO<sub>2</sub> infrastructure elements). EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Sarah Arra, Environmental Scientist, at (312) 886-9401 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Sarah Arra, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-9401, [arra.sarah@epa.gov](mailto:arra.sarah@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What should I consider as I prepare my comments for EPA?
- II. What is the background of these SIP submissions?

III. What is EPA's review of these SIP submissions?

IV. What action is EPA taking?

V. Statutory and Executive Order Reviews.

**I. What should I consider as I prepare my comments for EPA?**

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date, and page number).
2. Follow directions - EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

## **II. What is the background of these SIP submissions?**

This rulemaking addresses a December 31, 2012, submission and a January 9, 2015, clarification from the Illinois Environmental Protection Agency (Illinois EPA) intended to address all applicable infrastructure requirements for the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions "within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof)," and these SIP submissions are to provide for the "implementation, maintenance, and enforcement" of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that "[e]ach such plan" submission must address.

This specific rulemaking is only taking action on the CAA 110(a)(2)(A) requirements of these submittals. The majority of the other infrastructure elements were finalized in an October 16, 2014 (79 FR 62042), rulemaking.

### **III. What is EPA's review of these SIP submissions?**

On September 13, 2013, EPA issued "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)" (2013 Memo). This guidance provides, among other things, advice on the development of infrastructure SIPs for the 2008 ozone, the 2010 NO<sub>2</sub>, the 2010 SO<sub>2</sub> NAAQS. As noted in the 2013 Memo, pursuant to CAA section 110(a), states must provide reasonable notice and opportunity for public hearing for all infrastructure SIP submissions. The public comment period for Illinois EPA's infrastructure SIP submission ended on December 26, 2012; during this period, the state did not receive any written comments, nor was there a request for a public hearing. EPA is also soliciting comment on our evaluation of the state's infrastructure SIP submission in this notice of proposed rulemaking. Illinois provided a detailed synopsis of how various components of its SIP meet each of the applicable requirements in section 110(a)(2) for the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS, as applicable. The following review only evaluates the state's submissions for CAA section 110(a)(2)(A) requirements.

#### **A. Section 110(a)(2)(A) - Emission limits and other control measures.**

This section requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance, and other related matters. However, EPA has long interpreted emission limits and control measures for attaining the standards as being due when nonattainment planning requirements are due.<sup>1</sup> In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

The Illinois Environmental Protection Act is contained in chapter 415, section 5, of the Illinois Compiled Statutes (415 ILCS 5). 415 ILCS 5/4 provides Illinois EPA with the authority to develop rules and regulations necessary to meet ambient air quality standards. Additionally, the Illinois Pollution Control Board (IPCB) was created under 415 ILCS 5, providing the IPCB with the authority to develop rules and regulations necessary to promote the purposes of the Illinois Environmental Protection Act. Furthermore, the IPCB ensures compliance with required laws and other elements of the state's attainment plan that are necessary to attain the NAAQS, and to comply with the requirements of the CAA (415 ILCS 5/10).

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<sup>1</sup> See, e.g., EPA's 73 FR 66964 at 67034, final rule on "National Ambient Air Quality Standards for Lead."



The 2013 Memo described above states that to satisfy section 110(a)(2)(A) requirements, "an air agency's submission should identify existing EPA-approved SIP provisions or new SIP provisions that the air agency has adopted and submitted for EPA approval that limit emissions of pollutants relevant to the subject NAAQS, including precursors of the relevant NAAQS pollutant where applicable" (2013 Memo at page 18). In its January 9, 2015 clarification letter, Illinois EPA identified regulations with existing controls and emission limits that can be applied to the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS. These regulations include controls and emission limits for volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) which are ozone precursors. Existing controls and emission limits which control VOC as an ozone precursor and can be applied to the 2008 ozone NAAQS are found in 35 Illinois Administrative Code (IAC) Parts 205, 215, 218, 219, and 233. Existing controls and emission limits which control NO<sub>x</sub> as an ozone precursor and can be applied to the 2008 ozone and the 2010 NO<sub>2</sub> NAAQS are found in 35 IAC Parts 217 and 225. Existing controls and emission limits which control SO<sub>2</sub> and can be applied to the 2010 SO<sub>2</sub> NAAQS are found in 35 IAC Parts 214 and 225. EPA proposes that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

In this rulemaking, EPA is not proposing to approve any new provisions in 35 IAC Parts 205, 214, 215, 217, 218, 219, 223, and 225 that have not been previously approved by EPA. In addition, as stated in the October 16, 2014 (79 FR 62042), rulemaking approving the majority of the other infrastructure elements in the state's submission, EPA is not proposing to approve or disapprove any existing state provisions or rules related to start-up, shutdown or malfunction or director's discretion in the context of section 110(a)(2)(A).

#### **IV. What action is EPA taking?**

EPA is proposing to approve submissions from Illinois certifying that its current SIP is sufficient to meet the required infrastructure element under CAA section 110(a)(2)(A) for the 2008 ozone, 2010 NO<sub>2</sub>, and 2010 SO<sub>2</sub> NAAQS.

#### **V. Statutory and Executive Order Reviews.**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995

(15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control,  
Incorporation by reference, Intergovernmental relations, Ozone,  
Nitrogen dioxide, Sulfur dioxide, Reporting and recordkeeping  
requirements.

Dated: February 12, 2015.

Susan Hedman,  
Regional Administrator, Region 5.

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